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Report of the Secretary-General on Eritrea

I. Introduction

1. In paragraph 19 of its resolution 2023 (2011), adopted on 5 December 2011, the Security Council requested me to report within 180 days on Eritrea's compliance with the provisions of the resolution and resolutions 1844 (2008), 1862 (2009) and 1907 (2009).

2. A note verbale was subsequently transmitted to the Permanent Mission of Eritrea to the United Nations, on 18 April 2012, requesting information from the Government by 2 May 2012 on the fulfilment of the provisions contained in resolution 2023 (2011).

3. On 2 May 2012, the Government of Eritrea submitted a report on its compliance with resolution 2023 (2011) to the Secretariat.

II. Background and key developments since my previous report on Eritrea (S/2010/327)

4. In adopting resolution 2023 (2011), the Security Council reinforced the existing sanctions regime on Eritrea as established under resolution 1907 (2009) for its destabilizing role in the Somalia conflict and for its failure to comply with resolution 1862 (2009), on its border dispute with Djibouti. The resolution imposed a two-way arms embargo (import and export), a travel ban and an assets freeze. Resolution 2023 (2011) expanded the sanctions to include the "diaspora tax", a 2 per cent income tax levied on Eritrean nationals living abroad, and the mining sector. The Council called on Eritrea to stop the use of the "diaspora tax" to support, directly or indirectly, armed opposition groups in violation of resolutions 1844 (2008) and 1862 (2009). In this regard, the resolution required Eritrea to cease using extortion, threats of violence, fraud and other illicit means to collect taxes outside Eritrea from its national or other individuals of Eritrean descent. The resolution also requested Member States to hold accountable individuals in their territory who were engaged in those activities on behalf of the Eritrean Government or the ruling People's Front for Democracy and Justice.

5. With regard to the mining sector, the resolution called on Eritrea to show transparency in its public finances in order to demonstrate that the proceeds of mining activities were not being used to destabilize the region, in violation of

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resolutions 1844 (2008), 1862 (2009) and 1907 (2009). Member States were required to exercise vigilance to ensure that funds derived from the mining sector did not contribute to violations of the sanctions regime. In this regard, the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, with the assistance of the Somalia and Eritrea Monitoring Group, was requested to draft due diligence guidelines for use by Member States.

6. Finally, the resolution called for the release of Djiboutian prisoners of war and the implementation of resolution 1862 (2009). The mandate of the Somalia and Eritrea Monitoring Group was expanded to include monitoring and reporting on the implementation of these new measures. Furthermore, Member States were required to report to the Security Council within 120 days on steps taken to implement the provisions of resolution 2023 (2011).

7. Prior to the adoption of the resolution, in a letter dated 25 October 2011 to the President of the Security Council (see S/2011/663), the Government of Eritrea had informed Member States of the request of the President of Eritrea, Isaias Afwerki, to address the Council on "issues related to Ethiopia's occupation of sovereign Eritrean territory and Eritrea's constructive regional policies and its broad and positive engagements". On 30 November 2011, the President of the Council extended an invitation to Eritrea and its neighbouring countries to brief the Council. In a subsequent letter to the President of the Council, dated 3 December 2011 (see S/2011/753), the Minister for Foreign Affairs of Eritrea expressed his Government's strong objections to the efforts of the United States of America to "prevent the intervention of President Isaias Afwerki from having any influence on the Council's deliberations ... [by making] it logistically impossible and rendering it a mere formality and utterly meaningless". On 5 December 2011, the Council heard interventions by the President of Djibouti, Ismaël Omar Guelleh; the President of Somalia, Sheikh Sharif Sheikh Ahmed; the Prime Minister of Ethiopia, Meles Zenawi; the Minister for Foreign Affairs of Kenya, Moses Wetangula; and the Permanent Representative of Uganda to the African Union, Mull Katende, speaking by means of videoconference from Addis Ababa. All of them urged the Council to adopt the draft resolution on Eritrea.

8. In January 2012, the African Union Peace and Security Council called for the full implementation of Security Council resolutions 2023 (2011) and 1907 (2009). This was reiterated in the decision of the eighteenth ordinary session of the Assembly of Heads of State and Government of the African Union. In the lead-up to these events, the Intergovernmental Authority on Development (IGAD) issued two communiqués, on 28 June and 4 July 2011, calling on the African Union and the United Nations Security Council to fully implement existing sanctions on Eritrea and impose additional measures targeting the "diaspora tax" and the mining sector.

9. Tensions between Eritrea and Ethiopia had perceptibly escalated in March 2011 when the Ethiopian Government issued a series of public statements announcing a tougher policy on Eritrea that entailed the use of both its diplomatic and its military capacity to bring about regime change in that country. These statements followed the arrest of "terrorists" who were allegedly under orders from the Eritrean Government to attack Ethiopian targets. Ethiopia proclaimed that it had also uncovered evidence of Eritrea's complicity in fomenting a North Africa-type revolution in Ethiopia. It also explained that its new stance was due to its frustration at the lack of enforcement of the sanctions regime on Eritrea under resolution 1907

(2009) and the latter's limitless capacity to incite instability. Ethiopia clarified that its initial response would be focused on mobilizing the international community to apply increased pressure on Eritrea.

10. In a letter dated 25 March 2011 to the President of the Security Council (S/2011/181), Eritrea expressed concern about Ethiopia's belligerent statements and threats of the use of force, stating that during the past 10 years, Ethiopia had been actively pursuing a hostile policy against it, including support for Eritrean armed groups, leading to regional instability. Eritrea referred to the "unbalanced" sanctions imposed under resolution 1907 (2009), particularly the arms embargo, stating that those measures "could potentially encourage Ethiopia to contemplate reckless acts of further aggression and subversion against Eritrea". It accused Ethiopia of violating the Charter of the United Nations and international law by threatening military action and by continuing to occupy land awarded to it by the Eritrea-Ethiopia Boundary Commission.

11. Eritrea restated its long-held position that it was "prepared for full normalization as soon as Ethiopia accepts its international treaty obligations and withdraws from sovereign Eritrean territory". Eritrea called on the Security Council to uphold the demarcation decision of the Eritrea-Ethiopia Boundary Commission, as it was obligated to do under the Algiers Agreement and the United Nations Charter, and to ensure the withdrawal of Ethiopia from the occupied Eritrean territories. Referring to the same issue, Prime Minister Meles Zenawi said in his statement to the Security Council on 5 December 2011 that while Ethiopia "may or may not like the delimitation decision ... we have made it officially and abundantly clear that we accept it unconditionally. ... What we have therefore asked the Eritreans to do is to engage us in dialogue so that we can move towards demarcation. That is what Nigeria and Cameroon did; they engaged in dialogue to implement a delimitation decision".

12. On 18 July 2011, the final report of the Somalia and Eritrea Monitoring Group, containing its findings and recommendations, was issued as a document of the Security Council (see S/2011/433). The report provided a detailed account, with supporting evidence, of Eritrea's violations of resolutions 1844 (2008) and 1907 (2009), including allegations of its continuing support for Al-Shabaab in Somalia and other armed groups in the region, as well as its involvement in a plot to disrupt the African Union summit held in Addis Ababa in January 2011. On 19 July 2011, the Council held an informal interactive dialogue with Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Uganda and the IGAD facilitator for Somalia.

13. Prior to adopting the recommendations contained in the report of the Somalia and Eritrea Monitoring Group, the Committee on Somalia and Eritrea provided both the Governments of Eritrea and Ethiopia with the opportunity to present their respective views on the report. On 22 July 2011, the Political Adviser to the President of Eritrea denied the allegations contained in the report and informed the Committee of his Government's intention to submit a comprehensive response to it. On 27 July 2011, the Minister of State for Foreign Affairs of Ethiopia briefed the Committee and presented evidence of Eritrea's alleged complicity in the plan to disrupt the African Union summit in January 2011.

14. On 24 July 2011, I met with the Minister for Foreign Affairs of Eritrea and the Political Adviser to the President of Eritrea, who assured me that Eritrea had a contribution to make towards regional peace and security, particularly with respect

to Somalia, the outstanding issues between the Sudan and South Sudan regarding the Comprehensive Peace Agreement, and Darfur. The Minister underlined the Government's intention to strengthen its relationship with the United Nations family. On 31 July 2011, I received a letter from President Afwerki in which he expressed concern about Ethiopia's efforts to mobilize the Security Council to impose additional sanctions on Eritrea and urged me to play a role in preventing this from materializing. In my response, I emphasized that the application of sanctions was under the remit of the Security Council and encouraged his Government to continue its dialogue with the Council. This was followed by a series of letters from the Eritrean Government to the Security Council and to me in which it protested the draft resolution on Eritrea and asked Council members to reject it.

15. On 20 October 2011, the Eritrean Government submitted its comprehensive response to the report of the Somalia and Eritrea Monitoring Group to the Committee and the Security Council (see S/2011/652). It stated that the report lacked credible and conclusive evidence to support the allegations that Eritrea had violated resolution 1907 (2009). On Eritrea's involvement in a plan to disrupt the African Union summit, which in its view underpinned the drive to impose additional sanctions, Eritrea explained that it would have been counterproductive to carry out such an attack, particularly following its recent re-engagement with the African Union after a long absence and its participation in the summit. Eritrea accused Ethiopia of fabricating this plot to justify its push for the expansion of the sanctions regime.

16. In a letter dated 18 October 2011 addressed to me, the Minister for Foreign Affairs of Eritrea stated that Ethiopia had "illegally obstructed" Eritrea from attending the fortieth extraordinary session of IGAD, convened in Addis Ababa on 24 August 2011. He stressed that Ethiopia needed to be urged to respect Eritrea's right to participate in any IGAD-sponsored meetings effective 25 July 2011, when Eritrea requested to be readmitted to IGAD.

17. In September 2011, I met with President Afwerki in New York during the sixty-sixth session of the General Assembly. The President stated that the border issue with Ethiopia was a "closed chapter" and that there was "nothing to negotiate". He added, however, that the credibility of the Security Council was on the line and that it needed to make a decision. He also stated that Eritrea aspired to work with all the parties to promote peace and stability in Somalia, the Sudan and South Sudan.

18. In a letter dated 8 November 2011, the Permanent Representative of Kenya to the United Nations informed the Committee on Somalia and Eritrea of credible intelligence reports indicating that "Eritrea continues to carry out actions that aim to destabilize the already fragile situation in Somalia and the Horn of Africa in general". The letter stated that in early November 2011, three planes carrying weapons and other supplies to Al-Shabaab had landed in the Somali town of Baidoa, which was under the extremist group's control at the time. The letter alleged that "available information indicates that the arms emanated from Eritrea". Stressing that Eritrea's actions were consistent with the findings of the report of the Somalia and Eritrea Monitoring Group, the letter called on the Committee and the Council to take appropriate action.

19. On 18 January, the Government of Ethiopia informed the Security Council of an attack that had been carried out two days earlier by gunmen, targeting a group of 22 tourists travelling in Afar Regional State in the north-eastern part of the country. Five people had been killed (two Germans, two Hungarians and an Austrian), four

had been injured (an Italian, a Hungarian and two Germans) and three Ethiopians had been kidnapped. The Ethiopian Government accused Eritrea of direct involvement in the incident, declaring that it would take any action necessary to stop Eritrea's overt support for terrorist activity.

20. In a subsequent letter to the President of the Security Council, dated 14 March 2012 (see S/2012/158), the Ethiopian Government expressed frustration about the international community's unsuccessful efforts to coerce Eritrea to comply with relevant Council resolutions, stating that the recent terrorist act against the tourists had been a clear indication of the determination of the Eritrean regime to pursue its destructive role in disregard of international law and norms. Ethiopia called on the Security Council to ensure the implementation of the resolutions and stated that it reserved its right of self-defence in accordance with the Charter of the United Nations.

21. On 15 March 2012, the Ethiopian army attacked three alleged rebel bases inside Eritrea in retaliation for the killing and kidnapping of tourists. Eritrea initially dismissed the attack as an attempt by Ethiopia to divert attention from the tenth anniversary of the Eritrea-Ethiopia Boundary Commission ruling. Subsequently, the Eritrean Government requested the Security Council to conduct an investigation into the incident (see S/2012/181).

22. In its midterm briefing to the Committee on Somalia and Eritrea in February 2012, the Somalia and Eritrea Monitoring Group reported that it had obtained sufficient information about and evidence of Eritrea's recent violations of resolutions 1844 (2008) and 1907 (2009), including support for the Ogaden National Liberation Front and the Oromo Liberation Front. With respect to resolution 1862 (2009), on the Djibouti-Eritrea border conflict, the Somalia and Eritrea Monitoring Group referred to the letter that I had received from the Government of Djibouti on 4 October 2011 concerning the escape of two Djiboutian military personnel (captured at Ras Doumeira in June 2008) from Eritrean custody on 5 September 2011. Although Eritrea has consistently denied the existence of Djiboutian prisoners of war, the Group had the opportunity to interview the former detainees and establish the credibility of their accounts.

23. The Somalia and Eritrea Monitoring Group also stated that, upon investigation of the statement by the Government of Kenya, its preliminary findings indicated that the alleged flights to Baidoa had not in fact taken place. On 24 April 2012, the Group requested the Government of Kenya to share any evidence that would support the allegations that it had made against Eritrea. To date, no reply has been received from the Government of Kenya.

24. The Somalia and Eritrea Monitoring Group informed the Committee on Somalia and Eritrea that it had begun to investigate, as mandated by the Security Council in resolution 2023 (2011), the extent of Eritrea's use of extortion, threats of violence and other means to collect taxes outside Eritrea from its nationals or other individuals of Eritrean descent. The Group also reported on its continuing efforts to revise and update the information that it had already gathered on those individuals and entities that met the criteria for listing as stipulated in resolutions 1844 (2008) and 1907 (2009). The Group also pointed out that it continued to monitor the implementation of the sanctions against the 10 individuals and one entity on the Committee's list. The Group expressed the view that additional designations were required if the targeted measures were to remain credible and have a positive, deterrent effect on potential violators of the sanctions regime on Somalia and Eritrea.

25. In a letter dated 3 May 2012 addressed to me, the Minister for Foreign Affairs of Eritrea highlighted the fact that 13 April 2012 marked the tenth anniversary of the decision of the Eritrea-Ethiopia Boundary Commission. As Ethiopia continued to illegally occupy sovereign Eritrean territory, "silence and inaction by the United Nations remains an abdication of responsibility". He emphasized that Ethiopia's demand for dialogue had always been aimed at revising the Commission's decision and requested that I exercise my moral authority to end Ethiopia's occupation.

III. Compliance by Eritrea with resolution 2023 (2011)

26. On 2 May 2012, the Government of Eritrea submitted a letter in response to the note verbale on resolution 2023 (2011). Eritrea registered its serious concern about the sanctions regime, which, it believed, had "targeted the State of Eritrea unfairly on the basis of politically motivated, unfounded and unsubstantiated allegations". The letter appealed for the lifting of sanctions.

27. Furthermore, the letter noted that the measures imposed on Eritrea had emboldened Ethiopia to publicly express its intentions to support regime change in Eritrea through military means and to purchase arms with the aim of using them against Eritrea. The letter emphasized that Eritrea's sovereignty and territorial integrity continued to be violated by Ethiopia's continuing occupation of the Eritrean town of Badme and other areas in breach of the Algiers Peace Agreement and the United Nations Charter.

28. The letter then proceeded to outline Eritrea's regional policy and actions in support of that policy in the Sudan, Somalia and Djibouti along the same lines as in its comprehensive response to the report of the Somalia and Eritrea Monitoring Group. Eritrea claimed that its portrayal as a destabilizing force in the region did not reflect the reality on the ground, stating that it had diplomatic relations with all the countries in the region with the exception of Ethiopia. It had recently appointed a new resident Ambassador in Uganda and had maintained its representation to the African Union since late 2010. Eritrea referred to its efforts to reactivate its membership in IGAD, which, it said, had been initially welcomed by the IGAD secretariat and subsequently blocked by Ethiopia.

29. Eritrea referred to its constructive engagement on the Sudan starting with its contribution to the Declaration of Principles adopted by IGAD in 1994 and its role in facilitating negotiations on the 2005 Comprehensive Peace Agreement. Eritrea said it had welcomed the referendum in South Sudan and had demonstrated its solidarity with and support for the new State. Eritrea also mentioned its catalytic role in the Asmara peace accord between the Government of the Sudan and the eastern opposition movements in 2006, as well as its joint efforts with Chad, Libya and Qatar in finding a lasting solution to the Darfur conflict.

30. With respect to Somalia, the letter referred to Eritrea's support for the efforts of the Alliance for the Re-Liberation of Somalia to convene a conference in Asmara in 2007 to help stabilize the country, noting that Al-Shabaab had, at the time, denounced it as a "conference with a secular agenda". Eritrea reiterated that as a matter of principle, it did not support Al-Shabaab or any form of extremism, referring to its past endeavours to combat the spread of terrorism in the region in the early 1990s. Eritrea stated that its attempts to engage the Transitional Federal Government following the Istanbul Conference of May 2010 had not been successful.

31. Eritrea also lamented Ethiopia's efforts to demonize it as the main culprit in Somalia's crisis, thus mobilizing other IGAD countries to oppose its participation in the United Nations high-level meeting of 23 September 2010 and the London Conference on Somalia, held in March 2012.

32. In his briefing to the Council on 5 December 2011, President Sharif of Somalia said that he had sought the support of Libya's former President Qadhafi in 2009 in persuading Eritrea not to intervene in his country. President Sharif indicated that his effort had been rebuffed by President Afwerki, who had informed Qadhafi that reconciliation with Somalia was impossible.

33. Eritrea stated that it remained committed to the mediation process initiated by the Emir of Qatar to resolve its border dispute with Djibouti, including the question of missing persons and prisoners of war as governed by the peace agreement of 6 June 2010. Eritrea referred to its withdrawal from the border area and the deployment of Qatari troops to monitor the border between the two countries, claiming that it had restrained itself on that subject in an effort to avoid compromising the Qatari mediation process.

34. The letter stressed that the sanctions regime had created an imbalance in the region "allowing Ethiopia and the armed groups it supports to openly engage in naked aggression against the territorial integrity of Eritrea". In this connection, Eritrea awaited the response of the Security Council to its request for a full investigation into the armed incursion into Eritrean territory by Ethiopia on 15 March 2012. Eritrea viewed Ethiopia's claim that it was pursuing Afari terrorist elements as not credible. Eritrea stressed that ending Ethiopia's occupation of its territory would lead to the normalization of bilateral ties and pave the way for lasting peace. The lack of serious and credible action against Ethiopia would continue to impede regional peace and security.

35. On the question of the "diaspora tax", Eritrea drew attention to its sovereign right to levy taxes on its citizens, emphasizing that the revenue collected from the tax was aimed at providing a "social cushion for the dependants of martyrs of war, disabled war veterans and national reconstruction and development" projects. Eritrea insisted that the domestic law under which the tax had been created was not extrajudicial and that the tax was levied on Eritrean citizens living abroad, not on individuals of Eritrean descent. As all Governments pursued "legally specified enforcement measures to regulate tax evasion", in the case of Eritrea, services related to the acquisition of property or land and to obtaining business licenses were withheld from members of the Eritrean diaspora who failed to meet their fiscal obligations. In Eritrea's view, this could not be characterized as using extortion or threats of violence, as indicated in resolution 2023 (2011). Eritrea reported that nationals residing abroad had now started to send their payments directly to Asmara while the Government finalized a new administrative procedure for the collection of taxes.

36. With respect to the mining sector, Eritrea reported that foreign and local investments followed established standards of transparency and accountability, highlighting that this sector had begun production only last year.

37. Finally, Eritrea drew attention to the numerous appeals that it had made to the Security Council to replace the current Somalia and Eritrea Monitoring Group with one that was "independent, impartial and credible".

IV. Observations

38. The present report outlines key events leading to the adoption of resolution 2023 (2011), on Eritrea, and major developments since then. Although the Council requested me to report on Eritrea's compliance with the resolution, the Secretariat has no independent means of verifying such compliance and has therefore relied on information provided by the Government of Eritrea, official United Nations documents, reports of the Somalia and Eritrea Monitoring Group and formal and informal exchanges with Member States.

39. Since my previous report on Eritrea to the Security Council (S/2010/327), of 22 June 2010, tensions in the Horn of Africa have steadily increased. The period in question was marked by Ethiopia's allegations of Eritrean involvement in a plot to disrupt the African Union summit held in Addis Ababa in early 2011. This was subsequently corroborated in the report of the Somalia and Eritrea Monitoring Group of 18 July 2011 (see S/2011/433), which also provided evidence of Eritrea's continuing support for various armed groups in the region.

40. The situation deteriorated further in March 2012 when Ethiopia carried out a military attack on alleged Afar training bases inside Eritrea in response to the killing and kidnapping of Western tourists in Ethiopia. These developments, combined with the lack of progress in the implementation of the Qatar-mediated peace agreement of June 2010 between Djibouti and Eritrea, have increased the already fragile regional dynamics in the Horn of Africa.

41. In respect of the latter, it should be recalled that in a letter dated 23 December 2010, to the Permanent Representative of Qatar to the United Nations, the Under-Secretary-General for Political Affairs outlined the range of services that the United Nations could provide with regard to the demarcation of the boundary between Djibouti and Eritrea. I wish to underline that the United Nations stands ready to assist the parties and Qatar in this regard.

42. Eritrea has consistently denied all allegations that it has violated Security Council resolutions, and has called on the Council to lift the targeted sanctions imposed on it. In this regard, I welcome Eritrea's stated efforts to re-engage with the region and the international community, including through interactions with the Council and its Committee on Somalia and Eritrea, and by taking steps to restore its membership in IGAD. The application of sanctions is not an end in itself, but a means to an end.

43. I strongly urge the Eritrean Government to engage in and maintain an open dialogue not only with the Committee, but also with the Somalia and Eritrea Monitoring Group, as a way to address its grievances and present its views. I also urge Eritrea to do more to establish evidence of its compliance with resolutions 1907 (2009) and 2023 (2011).

44. The lack of progress in the implementation of the decision of the Eritrea-Ethiopia Boundary Commission continues to negatively affect the multifaceted and complex regional dynamics in the Horn of Africa and the normalization of relations between the two countries. A comprehensive approach should be adopted by States in the region, IGAD, the African Union and the United Nations to address the broader aspects of the conflict in the region, including this long-standing border stalemate.